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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
Re: Appeal to the Board of Patent Appeals and Interferences

Appellants      MacDonald et al.      )      Examiner:      Nathan W. Schlientz  
Serial Number:      10/731,256      )      Group Art Unit:      1616  
Filed:      December 9, 2003      )      Customer Number:      22827  
Confirmation No:      4720      )      Deposit Account:      04-1403  
Title:      Triggerable Delivery System for      )      Attorney Docket No.      KCX-859 (19100)  
                  Pharmaceutical and Nutritional  
                  Compounds and Method of  
                  Utilizing Same

1.  **NOTICE OF APPEAL:** Pursuant to 37 CFR 41.31, Applicant hereby appeals to the Board of Appeals from the decision dated September 5, 2008 of the Examiner twice/finally rejecting claims 28, 30, 31, 33-35, 37, 38, 40, 42-44, 46, and 62-67.
2.  **BRIEF** on appeal in this application pursuant to 37 CFR 41.37 is transmitted herewith (1 copy).
3.  An **ORAL HEARING** is respectfully requested under 37 CFR 41.47 (due within two months after Examiner's Answer).
4.  Reply Brief under 37 CFR 41.41(b) is transmitted herewith (1 copy).
5.  "Small entity" verified statement filed: [ ] herewith [ ] previously.

6. **FEES CALCULATION:**

	<b>Fees</b>
If box 1 above is X'd enter \$ 540.00	\$ 540.00
If box 2 above is X'd enter \$ 540.00	\$ 0.00
If box 3 above is X'd enter \$1,080.00	\$ 0.00
If box 4 above is X-d enter -0- (no fee)	\$ 0.00

**PETITION** is hereby made to extend the original due date of December 5, 2008, hereby made for an extension to cover the date this response is filed for which the requisite fee is enclosed (1 month \$130; 2 months \$490; 3 months \$1,110; 4 months \$1,730, 5 months \$2,350

540.00

130.00

**SUBTOTAL:**      \$ 670.00

Less any previous extension fee paid since above original due date.      -      \$ 0.00

Less any previous fee paid for prior Notice of Appeal since Board did not render a decision on the merits. MPEP § 1204.01      -      \$ 0.00

Less any previous fee paid for submitting Brief on prior Appeal since Board did not render a decision on the merits. MPEP § 1204.01      -      \$ 0.00

**SUBTOTAL:** \$ 670.00

If "small entity" verified statement filed  previously,  
 herewith, enter one-half (½) of subtotal and subtract \$ 0.00

**TOTAL FEE ENCLOSED:** \$ 670.00

- Fee enclosed.
- Charge fee to our Deposit Account/Order Nos. in the heading hereof (for which purpose one additional copy of this sheet is attached)
- Charge to credit card (attach Credit Card Payment Form – PTO 2038)
- Fee NOT required since paid in prior appeal in which the Board of Appeals did not render a decision on the merits.

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The Commissioner is hereby authorized to charge any fee specifically authorized hereafter, or any fees in addition to the fee(s) filed, or asserted to be filed, or which should have been filed herewith or concerning any paper filed hereafter, and which may be required under Rules 16-18 (deficiency only) now or hereafter relative to this application and the resulting official document under Rule 20, or credit any overpayment, to our Account No. shown in the heading hereof. This statement does not authorize charge of the issue fee in this case.

**DORITY & MANNING ATTORNEYS AT LAW, P.A.**

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Signature: Ryan P. Harris

Date: January 5, 2009

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I hereby certify that this correspondence and all attachments and any fee(s) are being deposited with the United States Postal Service as first class mail in an envelope addressed to Commissioner for Patents, Post Office Box 1450, Alexandria, Virginia 22313-1450 on January 5, 2009.

Sandra S. Perkins

(Typed or printed name of person transmitting documents)

Sandra S. Perkins

(Signature of person transmitting documents)